



## **DEPARTMENT OF THE INTERIOR**

### **National Park Service**

[NPS-WASO-TPS-9445]

[2200-686]

### **Notice of Intent to Modify Schedule of Fees for Reviewing Historic Preservation Certification Applications**

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; Request for public comment.

**SUMMARY:** This notice alerts the public to proposed changes to the fees the National Park Service (NPS) charges for reviewing Historic Preservation Certification Applications. The current fees were set in 1984 and have not been changed since then.

**DATES:** Written comments will be accepted until [insert 30 days from date of publication in the Federal Register].

**ADDRESSES:** You may submit comments by any of the following methods:

e-mail: [michael\\_auer@nps.gov](mailto:michael_auer@nps.gov); fax: 202-371-1616, Attention: Michael Auer

Mail: Michael Auer, Technical Preservation Services, National Park Service, 1201 “Eye” St., NW, Org Code 2200, Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Brian Goeken, Chief, Technical Preservation Services, National Park Service, 1849 C St., NW, Org Code 2255, Washington, DC 20240, or e-mail: [brian\\_goeken@nps.gov](mailto:brian_goeken@nps.gov), or telephone at 202-354-2033.

## **SUPPLEMENTARY INFORMATION:**

### **Background**

The NPS charges fees for reviewing certification applications for Federal tax incentives contained in Section 47 of the Internal Revenue Code (referred to herein as “Historic Preservation Certification Applications”). The fees have not been changed since 1984, despite the increased costs to the government of administering the Historic Preservation Tax Incentives Program. Current fees do not cover the full costs of administering the program.

### **What is the Authority for this Action?**

The authority for this action is title V of the Independent Offices Appropriations Act (IOAA) of 1952, codified at 31 U.S.C. § 9701, which authorizes the head of a federal agency to “prescribe regulations establishing the charge for a service or thing of value provided by the agency.” *Id.* § 9701(b). Each charge must be fair and must be based on the costs to the Government, the value of the service or thing to the recipient, public policy, and other relevant facts. *Id.* § 9701(b)(2); *see also* OMB Circular A-25 and 36 C.F.R. § 67.11(a).

### **Why is the NPS Adjusting Fees at this Time?**

The fee schedule established in 1984 expressed the fees in fixed dollar amounts and did not contain provisions for adjusting the fees over time. This method contrasts with the now-standard Government practice of establishing and revising fees in periodic *Federal Register* notices, pursuant to the IOAA and OMB Circular A-25. Accordingly, the NPS published a final rulemaking, effective June 27, 2011, which stated that “Fees are charged for reviewing certification requests according to the schedule and instructions provided in public notices in the Federal Register by NPS.” 36 C.F.R. § 67.11(a) (2011). This rule authorizes the NPS to make the changes it now proposes.

In planning to revise fees, the NPS studied its direct and indirect costs associated with the review of Historic Preservation Certification Applications. The NPS found that the 1984 fee schedule does not cover these costs. The current fee schedule therefore fails to meet the IOAA objective that agencies such as the NPS establish fees for specific services provided to identifiable recipients such that the service provided may be “self-sustaining to the extent possible.” 31 U.S.C. § 9701(a).

The NPS also studied application fees charged by State governments under similar State historic preservation tax credit programs, as well as fees charged by local governments for review of development projects. On the basis of this comparison, the NPS concluded that its fees were not comparable to fees charged by other governmental agencies for similar services.

Accordingly, the NPS proposes to charge fees for reviewing Historic Preservation Certification Applications as set forth in the schedule and instructions appearing below. The proposed fees are projected to be less than the direct costs of the program, but would be at a higher percentage of direct and indirect costs than the 1984 fee structure.

### **When Will the NPS Implement the New Fee Schedule?**

The NPS intends to implement this proposed schedule, and initiate collection of the fees set forth herein, as soon as practicable following the expiration of a 30-day public comment period following this notice's publication in the Federal Register and after the NPS has had the opportunity to fully consider any public comments received. The NPS will publish in the Federal Register a notice providing the newly established fee schedule.

### **Public Participation**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

### **Fee Schedule Information**

Fees will be charged for reviewing Historic Preservation Certification Applications in accordance with the schedule appearing below. The NPS will continue to charge part of the overall fee at the time the Part 2—Description of Rehabilitation, describing a proposed

rehabilitation, is received by the NPS and the remainder of the fee when the Part 3—Request for Certification of Completed Work is received. However, the Part 2 fee will now be one-half of the overall fee, rather than the current flat fee of \$250. This allocation of the fee will better reflect the true cost to the Government of reviewing Part 2 applications describing proposed rehabilitations, inasmuch as reviewing Part 2 applications and amendments describing proposed rehabilitations consumes much more staff time than reviewing the Part 3 applications for completed work. Additionally, a number of applicants never submit a Part 3 describing completed rehabilitation work. In such cases, the portion of the review fee represented by the balance of the Part 2 work is never recovered by the NPS.

The 1984 fee schedule set fixed fees of \$500, \$800, \$1,500, and \$2,500 for projects of \$20,000 or more, grouped into four project size categories, with \$2,500 being the maximum fee for projects \$1,000,000 and above. In contrast, the new fee schedule sets the fee for projects \$50,000 and above at \$800 plus 0.15% (0.0015) of project costs over \$50,000, with a maximum fee of \$6,500 for projects \$3,850,000 and above. The new schedule thus better reflects that review costs generally increase as projects increase in size. The new schedule charges no fee for projects under \$50,000.

The new fee schedule applies only to new applications received by State Historic Preservation Offices after the effective date of this fee schedule. Part 3 applications describing completed work in previously reviewed Part 2 applications will be charged according to the schedule in effect at the time the Part 2 was reviewed.

## FEE SCHEDULE

Fees will be charged for reviewing certification applications in accordance with the schedule below. Applicants should make no payment until requested to do so by the NPS. A certification decision will not be issued on an application until the appropriate remittance is received. Fees are nonrefundable.

Application review fees (rounded to the nearest dollar) are based on the applicant's estimated rehabilitation costs (defined as "Qualified Rehabilitation Expenditures" or "QREs," pursuant to section 47 of the Internal Revenue Code).

### Current Fee Schedule

Cost of Rehabilitation	Fee
\$0 - \$19,999	\$0
\$20,000 - \$99,999	\$500
\$100,000 - \$499,999	\$800
\$500,000 - \$999,999	\$1,500
\$1,000,000 or more	\$2,500

### Proposed Fee Structure

Cost of Rehabilitation	Fee
\$0 - \$49,999	\$-0-
\$50,000 - \$3,849,999	\$800 + 0.15% (0.0015) of rehabilitation costs over \$50,000
\$3,850,000 or more	\$6,500

1. The application review fee will, upon request by the NPS, be payable one-half upon NPS receipt of a Part 2—Description of Rehabilitation, and one-half upon NPS receipt of a Part 3—Request for Certification of Completed Work.
2. If the estimated rehabilitation costs reported on the Part 3 are lower than those reported on the Part 2 previously submitted, then the Part 3 portion of the application review fee will be based on the costs reported on the Part 3. No refund of the Part 2 fee difference—if any—will be made.
3. If the estimated rehabilitation costs reported on the Part 3 application are higher than those reported on the Part 2 previously submitted, then the Part 3 portion of the fee will be 100% of the review fee less the Part 2 portion of the fee previously paid.
4. If Part 2 and Part 3 applications are received at the same time, the application review fee will be assessed on the estimated rehabilitation costs reported on the Part 3.
5. For a project involving multiple buildings that were functionally related historically pursuant to 36 CFR 67, the application review fee will be based on the estimated rehabilitation costs of the entire project.
6. For a phased project pursuant to 36 CFR 67, the application review fee will be based on the total estimated rehabilitation costs for all phases.

7. Projects requiring submittal of a new Part 2 application will be assessed an application review fee equal to the fee for a new Part 2 application. No refunds or credits toward the new application will be issued for the fees paid for the prior Part 2 application.

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Jonathan B. Jarvis

Director, National Park Service

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\_April 26, 2012\_\_\_\_\_

Date

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